

REMARKS

Summary

Claims 39-76 are pending in this application. Claims 1-38 were previously canceled. In the Office Action mailed on July 18, 2008, claims 39-76 were rejected. In view of the following remarks, favorable reconsideration and allowance of the standing claims are respectfully requested.

Rejections Under 35 U.S.C. § 103

At page 2, paragraph 4 of the Office Action claims 39-40 and 44-76 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kolawa et al., United States Patent No. 6,370,513 (“Kolawa”) in view of Cosentino et al., United States Patent No. 6,290,646 (“Cosentino”) and further in view of Petot, et al. article: “An artificial intelligence system for computer-assisted menu planning” (“Petot”). At page 11, paragraph 5 of the Office Action claims 42-43 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kolawa, Cosentino, Petot and further in view of Brown, United States Patent No. 6,168,563 (“Brown”). Applicant respectfully traverses the rejections, and requests reconsideration and withdrawal of the obviousness rejections.

Applicant respectfully submits that claims 39-76 define over the cited references whether taken alone or in combination. For example, claim 39 recites the following language, in relevant part:

shaping menu sets of said recipes for each of said
established therapeutic diet types in a menu database in
said system based upon said assigned food attributes....

According to the Office Action, the missing language is disclosed by Kolawa at Figure 7, column 9, lines 15-21 and column 11, lines 3-7 and 40-49. Applicant respectfully disagrees.

Applicant respectfully submits that Kolawa is directed to an automated recommendation system that provides recommendations based on user preferences. In the case of food, the user preference generally comprises taste. Applicant disagrees with the assertions in the Office Action that the menus generated in Kolawa are shaped based on assigned food attributes consisting of verified nutritional values. In contrast, Applicant submits that the menu recommendations provided in Kolawa are based on taste and learned user preferences.

Kolawa at column 9, lines 15-21, in relevant part, teaches:

In modifying default inclusive field values of a family's food preference vector, the computer program may inquire, for instance, the following: "Are any family members diabetic?"; "Are any family members on a low cholesterol diet?"; "Do any family members have a heart condition?"; "Are any of the family members trying to gain weight?"; "Are any of the family members trying to lose weight?"

Applicant submits that modifying a family's food preference vector based on responses to questions is distinguishable from shaping menus based on verified nutritional values. Stated differently, claim 39 requires that menus be shaped based on assigned food attributes that are based upon verified nutritional values of food items in each recipe of the menu. In contrast, the menus in Kolawa are based upon user preferences and user responses to particular questions, as identified above.

Furthermore, Kolawa at column 11, lines 3-7 and 40-49, in relevant part, teaches:

In step 490, the program recommends the top items from the sorted list. The actual number of items recommended is predetermined by either the user or systems programmer. According to one embodiment of the invention, the top seven items are recommended as the menu for the week...

Similarly, if the items are accepted, the program in step 236, asks questions to ascertain why each item was accepted. In step 238, the user preference vector 75 is updated, if necessary, and used for future choices. For instance, if a recommended recipe was rejected because it was too spicy, the value in the spiciness field of the user preference vector might be decreased. As a user uses the system over time, the recommendations become more and more accurate and feedback from the user becomes less and less required. In this case, the system may no longer require this type of initial feedback from the user.

Applicant submits that the above cited portions of Kolawa teach selecting foods for a menu based on user preferences and feedback received from the user. For example, a user preference vector may be modified if a recommended recipe was rejected because it was too spicy. Applicant submits that this is clearly distinguishable from the above recited language of claim 39 in that no use of verified nutritional values is even discussed with respect to menu selection.

The Office Action relies on “attributes” and “chemical components” disclosed in Kolawa to satisfy the requirement in claim 39 that “assigned food attributes” be utilized when shaping menu sets. Applicant respectfully submits that the Office Action incorrectly characterizes the “attributes” and “chemical components” of Kolawa as being analogous to the “assigned food attributes” required by claim 39. The “attributes” and “chemical components” of Kolawa include types of food, taste characteristics and ingredients, for example. At figures 26A-D and the accompanying text starting at column 21, line 28, Kolawa describes various GUIs for adjusting the weights of the

chemical compositions of a recipe. As stated at column 21, lines 31-33, “[t]he weights 960 are preferably set based on the contribution of each chemical composition to a dish’s taste....” In contrast, the “assigned food attributes” required by claim 39 are defined as attributes based on verified nutritional values of recipes. Consequently, Kolawa fails to disclose at least the above identified missing language.

Moreover, as correctly noted in the Office Action, Kolawa fails to disclose “making nutritional information associated with said menu sets available to said food service professionals.” According to the Office Action, Cosentino teaches making nutritional information available to said “nutritionists” at column 2, lines 25-62. Applicant respectfully disagrees.

As correctly noted in the Office Action on page 5, Cosentino teaches a method of monitoring and transmitting physiological and wellness parameters of overweight/obese patients to a remote site where a weight management professional or nutritionist evaluates the parameters and can supervise and provide nutritional guidance to remotely located individuals. The Office Action states on page 14 that “it is ‘nutritional information’ that would allow for a food service professional to provide ‘nutritional guidance’ and adapt an individual’s diet accordingly.” Applicant respectfully disagrees.

Applicant respectfully submits that the only information that is transmitted to the weight management professional or nutritionist in Cosentino is physiological or wellness parameters of a patient, such as the patient’s weight. *See* Cosentino at Abstract, figure 8, column 1, lines 16-18, column 4, lines 24-28 and 35-38, column 7, lines 55-60 and column 12, lines 46-54. Applicant submits that the weight management professional or nutritionist relies on the received patient information, rather than nutritional information

of a recipe or menu, to adjust a patient's diet. Claim 39 requires that nutritional information associated with suggested menu sets be made available to the food service professional. Cosentino, in contrast, teaches providing nutritionists with patient information on which they rely to independently make dietary and health determinations. Consequently, Cosentino fails to disclose the missing language of claim 39.

Finally, Applicant submits that Petot and Brown fail to remedy the above identified deficiencies of Kolawa and Cosentino. Petot is relied upon in the Office Action to teach facilitating food service management in a health care facility. At page 1014, column 1, paragraph 2 to column 2, paragraph 1, Petot discloses a program for planning daily menus. Petot, however, fails to teach providing a remote link of any kind for accessing the menu information as required by claim 39. The teaching of Petot, in contrast, is directed to an artificial intelligence algorithm to assist in the menu planning on a local computer. Petot, page 1010, column 1, paragraph 3 to column 2, paragraph 1.

Brown is relied upon in the Office Action to teach evaluating diabetic exchange rates of food items. Brown is generally directed to a remote health monitoring and maintenance system. More particularly, Brown at column 21, lines 32-53 teaches tracking a patient's blood glucose readings in connection with food information entered into the system by the patient along with the blood glucose readings. Brown, however, fails to teach at least shaping menus based upon assigned food attributes as recited in claim 39. Consequently, the cited references, whether taken alone or in combination, fail to disclose, teach or suggest every element recited in claim 39.

For at least these reasons, Applicant submits that claim 39 is patentable over the cited references, whether taken alone or in combination. In addition, claims 62 and 76

recite features similar to those recited in claim 39. Therefore, Applicant respectfully submits that claims 62 and 76 are not obvious and are patentable over the cited references for reasons analogous to those presented with respect to claim 39. Accordingly, Applicant respectfully requests removal of the obviousness rejection with respect to claims 39, 62 and 76. Furthermore, Applicant respectfully requests withdrawal of the obviousness rejection with respect to claims 40-61 and 63-75 that depend from claims 39 and 62 respectively, and therefore contain additional features that further distinguish these claims from the cited references.

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Conclusion

It is believed that claims 39-76 are in allowable form. Accordingly, a timely Notice of Allowance to this effect is earnestly solicited.

The Examiner is invited to contact the undersigned at 412-918-1100 to discuss any matter concerning this application.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. § 1.16 or § 1.17 to the previously authorized deposit account.

Respectfully submitted,

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Under 37 CFR 1.34(a)

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